

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LYNN T. PASLEY,

Plaintiff,

v.

CASE NO. 10-13485
HONORABLE LAWRENCE P. ZATKOFF

RESIDENT UNIT OFFICER SPENCE,

Defendant.

_____ /

ORDER DENYING MOTION FOR RECONSIDERATION

This matter is before the Court on Plaintiff's motion for reconsideration [dkt 9]. Pursuant to E.D. Mich. L.R. 7.1(h)(2), no response is permitted. The Court finds that the facts and legal arguments are adequately presented in Plaintiff's papers such that the decision process would not be significantly aided by oral argument. Therefore, pursuant to E.D. Mich. L.R. 7.1(h)(2), it is hereby ORDERED that the motion be resolved on the brief submitted. For the reasons set forth below, Plaintiff's motion for reconsideration is DENIED.

Local Rule 7.1(h)(3) governs motions for reconsideration, stating that "the court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court, either expressly or by reasonable implication." E.D. Mich. L.R. 7.1(h)(3). The same subsection further states, "the movant must not only demonstrate a palpable defect by which the court and the parties have been misled but also show that correcting the defect will result in a different disposition of the case." *Id.* A defect is palpable when it is obvious, clear, unmistakable,

manifest, or plain. *Mktg. Displays, Inc. v. Traffix Devices, Inc.*, 971 F. Supp. 262, 278 (E.D. Mich. 1997).

On September 29, 2010, the Court issued an order dismissing Plaintiff's *pro se* civil rights complaint under 42 U.S.C. § 1983, in which Plaintiff, a diabetic and state prisoner at the G. Robert Cotton Correctional Facility in Jackson, Michigan, alleged that Defendant was deliberately indifferent to Plaintiff's health when Defendant failed to notify the healthcare unit that Plaintiff's blood sugar was running low. In reaching its decision, the Court concluded that "the absence of adverse medical effects or demonstrable physical injury leads the Court to conclude that Plaintiff did not suffer from a serious medical need and that he has failed to satisfy the objective component of an Eighth Amendment claim." The Court also stated that "[e]ven if a sufficiently serious medical need existed, Plaintiff has not shown that Defendant Spence had a culpable state of mind."

In his motion for reconsideration, Plaintiff disagrees with the Court's findings, but offers nothing to conclude that the Court's opinion and order contained an obvious, clear, unmistakable, manifest, or plain error. Furthermore, since the Court examined whether Defendant was deliberately indifferent and had a culpable state of mind, the Court finds that Plaintiff's motion for reconsideration presents the same issues previously ruled upon.

Plaintiff also objects to the Court's consideration of exhibits attached to Plaintiff's complaint, which showed that Plaintiff received medical treatment, arguing that such exhibits should only have been used to demonstrate that Plaintiff exhausted his administrative remedies. However, Plaintiff offers no authority, nor is the Court aware of any, supporting the assertion that exhibits attached to a *pro se* plaintiff's complaint may only be considered for purposes desired by the plaintiff.

Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion for reconsideration [dkt 9] is DENIED.

IT IS SO ORDERED.

s/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: November 2, 2010

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on November 2, 2010.

s/Marie E. Verlinde
Case Manager
(810) 984-3290